



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON, D.C. 20370-5100

TJR

Docket No: 3350-00

23 October 2000

From: Chairman, Board for Correction of Naval Records  
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149 with attachments  
(2) Case summary  
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, filed enclosure (1) with this Board requesting, in effect, that his reenlistment code be changed.

2. The Board, consisting of Mr. Geisler, Ms. Hardbower, and Ms. Newman, reviewed Petitioner's allegations of error and injustice on 17 October 2000 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations, and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner enlisted in the Navy on 25 September 1995 at the age of 18. His record reflects that 15 days later, on 10 October 1995, after undergoing a medical examination, he was diagnosed as alcohol dependent.

d. Subsequently, Petitioner was notified that he was being considered for an administrative separation by reason of erroneous entry due to his diagnosed alcohol dependency. Petitioner waived his right to consult with legal counsel and did not object to the separation. Petitioner was then advised that, due to his diagnosed alcohol dependency, he was not recommended

for reenlistment. On 17 October 1995 Petitioner was issued a void enlistment by reason of erroneous entry due to alcohol abuse, and was assigned an RE-4 reenlistment code.

e. Title 10. U.S.C. 978 provides that the enlistment of any person determined to have been dependent on alcohol or other drugs at the time of enlistment shall be voided, and the individual shall be released from custody and control of the Naval Service. However, such a determination must be made within 72 hours from the date of enlistment.

#### CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants partial favorable action. In this regard, the Board notes that Petitioner's alcohol dependence was not established within the 72 hour time limit required for a void enlistment, therefore, the Board concludes that it would be appropriate to show that he was separated with an uncharacterized entry level separation by reason of erroneous enlistment due to alcohol abuse. Further, the Board concludes that Petitioner's reenlistment code is appropriate given his diagnosis of alcohol dependency and his lack of evidence to prove that the Navy's diagnosis was in error.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

#### RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was separated on 17 October 1995 with an uncharacterized entry level separation by reason of erroneous enlistment vice the void enlistment actually issued on that date.

b. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or material be added to the record in the future.

c. That any material directed to be removed from Petitioner's Naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's Naval record.

d. That no further relief be granted.

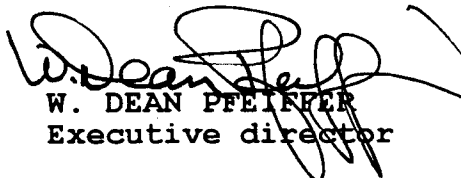
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN  
Recorder



ALAN E. GOLDSMITH  
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulation, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER  
Executive director